



STATE OF NEW YORK
OFFICE OF THE ATTORNEY GENERAL

ANDREW M. CUOMO
ATTORNEY GENERAL

CRIMINAL DIVISION
FEDERAL HABEAS CORPUS SECTION

June 26, 2008

MEMO ENDORSED

VIA FACSIMILE AND U.S. MAIL

Honorable Kevin N. Fox
United States Magistrate Judge
Southern District of New York
Daniel Patrick Moynihan
United States Courthouse
500 Pearl St., Room 540
New York, NY 10007

Re: Orlando Rodriguez v. Robert Ercole,
08 Civ. 2074 (CN)(KNF)

Your Honor:

I am an Assistant Attorney General in the office of Andrew M. Cuomo, Attorney General of the State of New York, attorney for respondent in the above-referenced habeas corpus proceeding. I am writing to respectfully request an extension of time to respond to the petition for a writ of habeas corpus from June 30, 2008 until July 30, 2008.

Your Honor previously granted respondent an extension of time until June 30, 2008 to file a response to petitioner's 28 U.S.C. § 2254 petition. Although we have received most of the records in the case, there are still outstanding necessary portions of the record that had been ordered but have not yet been received, including records related to petitioner's CPL § 440.10 motion and records related to petitioner's re-sentencing proceedings. Therefore, respondent respectfully requests an extension of time until July 30, 2008, in order to obtain those documents and to complete the response to the petition. This is my second request for an extension. I have not contacted petitioner regarding this extension because he is incarcerated and appearing pro se.

I thank the Court for its consideration to this matter.

6/26/08
Application granted.
The petitioner shall serve and
file any reply on or before
August 29, 2008.
SO ORDERED!

Kevin Nathaniel Fox
KEVIN NATHANIEL FOX, U.S.M.J.


Respectfully submitted
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cc: Orlando Rodriguez
04-A-5895
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